

**IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA  
CHARLESTON DIVISION**

Vanessa Richardson El,

Plaintiff,

v.

Mikell Scarborough, *et al.*,

Defendants.

Case No. 2:23-cv-03198-RMG

**ORDER AND OPINION**

This matter is before the Court on the Report and Recommendation (“R&R”) of the Magistrate Judge, recommending that the Court decline to give Plaintiff leave to amend and dismiss this action without prejudice and without issuance and service of process. (Dkt. No. 6). Plaintiff has not filed any objections to the R&R. The Court adopts the R&R as the Order of the Court and dismisses this action without prejudice and without service of process.

Plaintiff, proceeding *pro se*, brought this action under 17 U.S.C. § 502, alleging that Defendants committed “copyright infringement” by “going forward with [the] foreclosure auction sale” and “participating in the forceful removal of [Plaintiff] from [her] home.” (Dkt. No. 1 at 9).

The Magistrate Judge identified numerous legal bases for dismissal of this action, which include: (1) Plaintiff’s complaint is subject to summary dismissal as frivolous because it does not state a plausible claim to relief; (2) the Court does not have jurisdiction because, although Plaintiff brought this action under the Copyright Act, the allegations all concern the foreclosure of a home; (3) under settled law, a losing party in state court cannot seek appellate review in a United States district court. (Dkt. No. 6).

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility for making a final determination remains with this Court. *Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). This Court is charged with making

a de novo determination of those portions of the Report and Recommendation to which specific objection is made. Additionally, the Court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). Where the plaintiff fails to file any specific objections, “a district court need not conduct a de novo review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation,” *see Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (internal quotation omitted), and this Court is not required to give any explanation for adopting the recommendation of the Magistrate Judge, *Camby v. Davis*, 718 F.2d 198 (4th Cir. 1983).

After a careful review of the record in this matter and the R&R, the Court finds that the R&R ably summarizes the legal and factual issues in this matter and correctly concludes that this action should be dismissed without prejudice and without service of process. The Court further agrees that any effort to amend the complaint would be futile in light of the significant legal deficiencies in Plaintiff’s claim.

The Court adopts the R&R of the Magistrate Judge (Dkt. No. 6) as the Order of the Court. This action is dismissed without prejudice and without issuance and service of process.

**AND IT IS SO ORDERED.**

s/ Richard Mark Gergel  
Richard M. Gergel  
United States District Judge

October 3, 2023  
Charleston, South Carolina